IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL APPLICATION NO.1389 OF 2007
IN
CRIMINAL APPEAL NO. OF 2007

The State of Maharashtra .... Applicant
Vs.
Dnyandeo J. Pawar .... Respondent

Shri P.S. Hingorani, APP, for the Applicant.

Shri Pratap Patil for the Respondent.

CORAM: SRI R.M.S. KHANDEPARKAR &
SRI A.A. SAYED, JJ.

DATED: DECEMBER 13, 2007

P.C:

1. Heard. The learned Addl. Sessions Judge, on detail analysis of the evidence on record, has held that the prosecution has failed to establish the charge of rape against the respondent. Indeed, plain reading of the testimony of the prosecutrix sufficiently reveals that it is totally unbelievable. The narration of events apparently disclose total consent of, if at all there was intercourse between the prosecutrix and the accused, as alleged, and does not disclose any element of any forcible act which could bring the same within the parameters of Section 376 of IPC. The evidence on record has been analysed by the learned Addl. Sessions Judge in proper perspective and the findings are arrived at based on such analysis, and the same do not warrant

any interference. All the findings arrived at are clearly borne out from the records and do not disclose any infirmity or perversity.

2. The learned Advocate for the respondent has brought to our notice the testimony of the prosecutrix in yet another case which is almost repetition of the narration of the alleged incident in the case in hand itself. To the specific query as to whether the prosecutrix is in the habit of making such allegations and whether investigation in that regard was carried out, the learned APP has fairly submitted that the records nowhere disclose any investigation having been carried out in that regard. In the facts and circumstances of the case in hand, we do not find any case for grant of leave to appeal. Hence the application for leave to appeal is rejected. The application stands disposed of.

(A.A. Sayed, J.) (R.M.S.Khandeparkar, J.)

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